

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 9902 Permit 5604 License 3192

**ORDER CORRECTING PURPOSE OF USE, QUANTITY,
POINT OF DIVERSION, PLACE OF USE,
AND AMENDING LICENSE**

WHEREAS:

1. License 3192 was issued to Harold E. and Susan Thew Parks on May 28, 1951 pursuant to Application 9902 and was filed with the County Recorder of Humboldt County on May 31, 1951.
2. License 3192 was subsequently assigned on October 22, 1968 to Victor H. Levy and Miriam Levy, Melvin L. Winer, Lorraine M. Winer, Joseph D. Foster, and Syble C. Foster.
3. State Water Resources Control Board (SWRCB) staff conducted an inspection of the project on August 26, 1997 to determine ownership and the current use of water that was made under License 3192. During this inspection, staff determined that (1) the right to irrigate water under License 3192 has been lost due to nonuse and (2) all rights to water under License 3192 for the Nelson property, (formerly Foster) and McCullough property (formerly Winer) have been lost by nonuse for a period of more than five consecutive years.
4. The SWRCB has determined the owners of License 3192 shall be Victor H. Levy and Miriam Levy under License 3192 and shall be limited to domestic use on their place of use and shall confirm that the purpose of use, amount of water authorized to be diverted, point of diversion, and place of use are appropriate and will not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. The license condition pertaining to the SWRCB's continuing authority should be replaced with the current version to conform with Title 23, California Code of Regulations 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. The description for the purpose of use be corrected to read as follows:

Domestic Use
2. The description for the amount of water to be amended to read as follows:

Two thousand (2,000) gallons per day to be diverted
From January 1 to December 31 of each year. The
maximum amount diverted under this license shall not
exceed 1.0 acre-foot per year.
3. The description for the point of diversion be corrected to read as follows:

North 950 feet and West 225 feet from S $\frac{1}{4}$ corner of projected Section 11, T8N, R1W, HB&M, being within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 11, also described by California Coordinate System, Zone 1, North 647,150 and East 1,408,250.

4. The description of the place of use be corrected to read as follows:

At two residences and grounds within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 14, T8N, R1W, HB&M, as shown on map on file with State Water Resources Control Board.

5. The continuing authority provisions of this license be amended to read as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.


The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated:

SEP 24 1998


Harry M. Schueller
Division of Water Rights



STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

License for Diversion and Use of Water

APPLICATION 9902

PERMIT 5604

LICENSE 3192

THIS IS TO CERTIFY, That **Harold E. and Susan Thew Parks**
Spruce Cove
Trinidad, California

Notice of Assignment (Over)

have made proof as of August 18, 1950
(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the water of
McNeil Creek in Humboldt County

tributary to **Pacific Ocean**

for the purpose of **irrigation and domestic uses**

under Permit **5604**

of the Department of Public Works and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the Department of Public Works and the terms of the said permit; that the priority of the right herein confirmed dates from **May 21, 1940**; and

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed **six hundredths (0.06) cubic foot per second** to be diverted as follows: (a) from about May 1 to about November 1 of each year for irrigation purposes, and (b) throughout the year as required for domestic purposes.

The equivalent of such continuous flow allowance for any thirty day period may be diverted in a shorter time if there be no interference with other vested rights.

The point of diversion of such water is located **North eight hundred twenty (820) feet and West fifty (50) feet from SE corner of SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11, T 8 N, R 1 W, H.B.&M., being within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 11.**

A description of the lands or the place where such water is put to beneficial use is as follows:

3 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11
3 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11
4 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 14
5 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 14
15 acres total, all within T 8 N, R 1 W, H.B.&M.

The maximum area irrigated in any one year shall not exceed **6 acres.**

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Department acting through the State Engineer in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the State Engineer.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Department.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property can not agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Witness my hand and the seal of the Department of Public
Works of the State of California, this 28th
day of May, 1951



A. D. Edmonston
A. D. EDMONSTON,
State Engineer

10/27/53

RECEIVED NOTICE OF ASSIGNMENT TO

G. Millard Foster

10-9-74

RECEIVED NOTICE OF ASSIGNMENT TO

Melvin L. & Lorraine M.

*Winer, Arthur E. & Glenna Jean
Shaffer, Elizabeth J. & George
M. Foster, Jr.*

*6-21-78 Int of George M. Jr. & Elizabeth J. Foster asgd to
Joseph Dale Foster & Lyble Frances Foster*

*5-8-79 Int of Arthur E. & Glenna Jean Shaffer asgd to
Morrisey Equipment Corp.*

*10-22-86 Ownership Chgd to Victor H. & Miriam Levy; Melvin L. &
Lorraine M. Winer; Joseph D. & Lyble F. Foster.*

LICENSE 3192

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

LICENSE
TO APPROPRIATE WATER

ISSUED TO Harold E. and Susan Thew Parks

DATED MAY 28 1951

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